



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,035	01/16/2004	Joseph J. Kubler	14364US05	8478
23446 7590 08/02/2011 MCANDREWS HELD & MALLOY, LTD 500 WEST MADISON STREET SUITE 3400 CHICAGO, IL 60661			EXAMINER ROBERTS, BRIAN S	
			ART UNIT 2466	PAPER NUMBER
			NOTIFICATION DATE 08/02/2011	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mhmpto@mcandrews-ip.com

Office Action Summary	Application No.	Applicant(s)	
	10/760,035	KUBLER ET AL.	
	Examiner	Art Unit	
	BRIAN ROBERTS	2466	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-34,36-38,54-59,78-86,93-122,124,126,128 and 130-149 is/are pending in the application.
- 4a) Of the above claim(s) 96-121 and 130-133 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22,30-38,54-59,93-95 and 142-145 is/are allowed.
- 6) ☒ Claim(s) 122,124,126,128,134-141 and 146-149 is/are rejected.
- 7) ☒ Claim(s) 23-29 and 78-86 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

- Claims 22-34, 36-38, 54-59, 78-86, 93-122, 124, 126, 128, and 130-149 remain pending.
- Claims 96-121 and 130-133 have been withdrawn.

Claim Objections

Claims 23-29, 78-86, 122, 128, and 146-149 are objected to because of the following informalities:

- Claims 23-29, and 122 "The device" should read --The portable terminal device--
- Claim 78 line 10 "information, sending a" should read --information send a--
- Claims 79-86, 128, and 146-149 are objected to because they depend on objected independent claim 78.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 122, 124, 126, 128, 134-141, and 146-149 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- In reference to claims 122, 124, 128, 134-141, 146-149

Art Unit: 2466

Claims 122, 124, 128, 134-141, 146-149 are directed to a portable terminal device (i.e. an apparatus). The language "wherein the portable terminal device communicates... for each time interval" in lines 1-5 of claim 122, and similarly regarding the wherein clauses in claims 124, 128, 134-141, 146-149, render the claims indefinite because it is unclear which structural component (*e.g. microphone converter, transmitter, receiver, transducer*) of the portable terminal device each wherein clause is attempting to define. The claims should be amended so that the functional language in each of the wherein clauses define a structural component of the portable terminal device.

- In reference to claims 126, 128

Claims 126 and 128 recites the limitation "the basestation" in line 2 and "the plurality of portable terminal devices" in line 4. There is insufficient antecedent basis for these limitations in the claims.

Allowable Subject Matter

Claims 22, 30-38, 54-59, 93-95, and 142-145 are allowed.

Claims 23-29, and 78-86 would be allowable if rewritten or amended to overcome the objection(s) set forth in this Office action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN ROBERTS whose telephone number is (571)272-3095. The examiner can normally be reached on M-F 10:00-7:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DANIEL RYMAN can be reached on (571) 272-3152. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brian Roberts/
Examiner, Art Unit 2466
07/27/2011